

Incorporation Process of the Miami-Dade Code of Ordinances

ARTICLE II. INCORPORATION PROCEDURE

Sec. 20-20. Petition for incorporation initiated by individual or group.

(A) An individual or group of area residents may file a petition for incorporation with the Clerk of the Board of County Commissioners.

- (1) The petition shall include the following information about the proposed municipality:
 - (a) General description and map of area boundaries, and
 - (b) Statement of the reason for seeking incorporation.
- (2) The petition shall include the consent from ten (10) percent of the electors in the area proposed for incorporation.
- (3) Any resolutions of support for incorporation by the closest existing municipality.

(B) The Clerk of the Board of County Commissioners shall upon receipt of a petition for incorporation transmit a copy to the Office of Management and Budget for determination of completeness in accordance with the requirement of subsection (A). Upon determining that the petition is complete, the Office of Management and Budget shall notify the Clerk of the Board and make recommendation to County Manager regarding overall schedule for consideration of petition.

(C) The requirement of filing a petition for incorporation pursuant to Sec. 20-20 of the Code of Miami-Dade County (the "Code") and the procedures for such filing contained in Sec. 20-21(A) of the Code shall not apply to incorporation proposals by the County Commission or County Manager. It is provided, however, that a Commission or Manager-initiated incorporation proposal shall be deemed a petition for proposed incorporation for purposes of Section 20-21; 20-22, and 20-23 and shall be required to comply therewith. Notwithstanding Section 20-23A herein, the Board of County Commissioners may hold a public hearing on a Commission initiated incorporation proposal during any regular or special meeting of the Board of County Commissioners.

(Ord. No. 95-78, § 1, 5-2-95; Ord. No. 95-131, § 1, 7-13-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 96-136, § 1, 9-17-96; Ord. No. 98-125, § 13, 9-3-98; Ord. No. 00-124, § 1, 10-3-00; Ord. No. 01-168, § 1, 10-23-01; Ord. No. 01-183, § 1, 11-6-01)

Sec. 20-21. Initial consideration of petition for proposed incorporation.

(A) After receiving the Office of Management and Budget's determination that the petition is complete, the Clerk of the Board of County Commissioners shall schedule for public hearing the proposed petition for incorporation at a regular meeting of the Board of County Commissioners.

(B) The Clerk shall advertise in a daily newspaper of general circulation that a petition for incorporation has been received and shall include in the advertisement the following information:

- (1) Map of the area proposed for incorporation,
- (2) Date of hearing for initial consideration by the Board of County Commissioners, and
- (3) Contact persons or departments where additional information may be provided.

(C) The Board of County Commissioners at its initial public hearing for considering a petition for incorporation, after determining the requirements for showing of support set forth in Section 20-20 (A)(2) have been fulfilled, may:

- (1) Establish an overall schedule for consideration of the petition, after receiving the County Manager's recommendation on such matter; and
- (2) Refer the petition to the Planning Advisory Board for its review and recommendations.

(Ord. No. 95-78, § 1, 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 13, 9-3-98; Ord. No. 01-168, § 1, 10-23-01)

Sec. 20-21.1. Exception to filing and consideration of requests for incorporation.

Notwithstanding anything in this article to the contrary, no incorporation request shall be filed, nor shall any filed request be heard, considered, or approved, pursuant to Section 20-23, by the Board of County Commissioners, prior to December 1, 1998, except upon a prior two-thirds (2/3) vote of the membership of the County Commission to allow such filing, hearing consideration or approval.

(Ord. No. 96-146, § 1, 10-8-96; Ord. No. 97-211, § 2, 12-2-97; Ord. No. 01-218, § 2, 12-18-01)

Editor's note: Ord. No. 01-218, § 2, adopted Dec. 18, 2001 amended section 20-21.1. Section 6 of said ordinance provided for the repeal of said ordinance 90 days from its effective date.

Sec. 20-22. Planning Advisory Board's consideration of petition for incorporation.

(A) The Director of the Office of Management and Budget, prior to transmittal to the Planning Advisory Board, shall request the directors of all other applicable County departments to review and comment on the incorporation petition with respect to their areas of expertise and responsibility.

(B) The Director of the Office of Management and Budget, upon receipt of recommendations of other departments, shall prepare a report on the petition containing the following information:

- (1) Summary of petition,
- (2) Socio-economic profile of area,
- (3) Development profile of area, and
- (4) Other information outlined in Section 20-23(B)(1).

The report shall be transmitted to the Boundaries Commission and the Planning Advisory Board.

(C) The Planning Advisory Board, upon receipt of a petition and appropriate County department staff review and recommendation, and the recommendation of the Boundaries Commission shall:

- (1) Conduct a properly advertised public hearing within the area proposed for incorporation.
- (2) Require additional information from appropriate County departments as needed.
- (3) Make written recommendations with respect to the petition which shall include the following:
 - (a) An analysis of the issues outlined in Section 20-23(B);
 - (b) Other considerations deemed relevant by the Board

(D) The Director of the Office of Management and Budget shall forward the petition and recommendations of the Planning Advisory Board and County staff to the County Manager for review and recommendation. The County Manager shall transmit the petition as well as the recommendations of the Planning Advisory Board, Boundaries Commission and County Manager to the Clerk of the Board of County Commissioners.

(E) The Clerk of the Board of County Commissioners, upon receipt of the recommendations by the Planning Advisory Board and County Manager, shall set the matter of such proposed incorporation for public hearing at a regular meeting of the County Commission and cause notice of such public hearing to be published in a daily newspaper of general circulation in Miami-Dade County at least once not less than one (1) week prior to the date of such public hearing. Notice of such public hearing shall be furnished to all property owners within the area and within six hundred (600) feet thereof.

(Ord. No. 95-78, § 1, 5-2-95; Ord. No. 95-176, § 2, 10-5-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 13, 9-3-98; Ord. No. 01-168, § 1, 10-23-01)

Sec. 20-23. Board of County Commissioners consideration of proposed incorporation petition.

(A) The Board of County Commissioners shall only hold a public hearing on the petitions for incorporation during the period between September 1 and September 30 inclusive and during the period between March 1 and March 31 inclusive in each year, which shall be conducted as follows:

- (1) Persons requesting incorporation shall make a presentation outlining the merits of their petition,
- (2) The County Commission shall consider and review the recommendations of the Planning Advisory Board and the County Manager, and
- (3) The County Commission shall hear from any other interested persons.

(B) At the conclusion of the public hearing the Board of County Commissioners, in evaluating the appropriateness of a petition for incorporation, shall consider the following guidelines:

- (1) The suitability of the proposed boundaries to provide for a municipal community of interest that is both cohesive and inclusive. Specifically, the area should:
 - (a) Not divide a U.S. Census Designated Place, to the extent feasible.
 - (b) Include adjacent areas of ethnic minority and lower income residents in which a majority of those residents have so petitioned.
 - (c) Have contiguity and not create any unincorporated enclave area(s). An unincorporated enclave area is defined as an area that would be 1) surrounded on more than eighty (80) percent of its boundary by one (1) or more municipalities and of a size that could not be serviced efficiently or effectively.
 - (d) Have natural or built barriers as boundaries, to the extent feasible, and
 - (e) Include a mixture of residential and non-residential land uses.
- (2) Evidence of support of area residents and property owners sufficient to warrant the costs of balloting of electors,
- (3) Existing and projected property tax costs for municipal-level services to average homeowner in the area as currently unincorporated and as incorporated as a comparable Miami-Dade County city with a similar per capita property tax base.

(4) There are no suitable alternatives to incorporation, including annexation to an existing municipality,

(5) Is totally contained within the Urban Development Boundary depicted on the future Land Use Plan map of the Miami-Dade County Comprehensive Development Master Plan,

(6) The impact of the proposal on the revenue base of the unincorporated area, and on the ability of the County to efficiently and effectively provide services to adjacent remaining unincorporated areas, including the potential for the area to:

(a) Continue to participate in the County's Fire-Rescue and Library Districts, and

(b) Contract with the County for other municipal services,

(7) Potential revenue sources and facilities to be made available to the proposed municipality upon incorporation, and

(8) The financial impacts of the proposed incorporation on the remaining unincorporated areas of Miami-Dade County. Specifically in order to insure fiscal equity the per capita taxable property value of the area proposed for incorporation should fall between twenty thousand dollars (\$20,000.00) and forty-eight thousand dollars (\$48,000.00) in order to assure that fiscal viability is maintained in both the potential new municipality and the remaining unincorporated area.

(9) Any other factor that arises by virtue of recommendations of the Boundaries Commission, pursuant to Section 20-30 of the Code.

(10) Any other factor that arises by virtue of any special or unique circumstances of a given area.

(C) The Board of County Commissioners shall at the conclusion of the public hearing take one (1) of the following actions:

(1) Call for the election of the area electors on the incorporation petition as presented by the applicant(s),

(2) Call for the election of the area electors on the incorporation petition as modified with respect to boundaries or other aspects,

(3) Deny the proposed incorporation petition, or

(4) Defer such petition for further consideration by the applicant(s), Board of County Commissioners, the County Manager or the Planning Advisory Board.

(Ord. No. 95-78, § 1, 5-2-95; Ord. No. 95-131, § 1, 7-13-95; Ord. No. 95-176, § 2, 10-5-95; Ord. No. 02-99, § 1, 6-18-02)